

THE INSURANCE CODE OF 1956 (EXCERPT)

Act 218 of 1956

CHAPTER 58

GENERAL MUTUAL INSURERS (DOMESTIC)

500.5800 Applicability of chapter.

Sec. 5800. (1) This chapter applies only to domestic mutual insurers transacting property, casualty, disability, and other insurances, to mutual holding companies resulting from the reorganization of those mutual insurers, and to nonprofit mutual disability insurers.

(2) This chapter does not apply to any domestic insurer doing business on August 10, 1917, unless the insurer fully complies with this chapter and by resolution of its board of directors duly certified to by the president and secretary and filed with and approved by the commissioner elects to adopt the provisions of this chapter, in which case the insurer may thereafter effect such kind or kinds of insurance as specified in its articles of incorporation as then or thereafter amended or as may be specified in the resolution.

(3) A person incorporating under this chapter after January 1, 1984, is subject to the minimum financial requirements of sections 408 and 410. Any corporation incorporated under this chapter on or before January 1, 1984, continues to be subject to the provisions of section 5810(3).

(4) Except as otherwise provided in section 5801(2), a domestic mutual insurer transacting property, casualty, disability, and other insurances may be reorganized pursuant to chapters 59 and 60.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1970, Act 180, Imd. Eff. Aug. 3, 1970;—Am. 1984, Act 386, Eff. Mar. 29, 1985;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999;—Am. 2000, Act 8, Imd. Eff. Feb. 25, 2000;—Am. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5801 Formation of domestic mutual insurer; nonprofit status; powers of nonprofit mutual disability insurer; limitation.

Sec. 5801. (1) A domestic mutual insurer may be formed with nonprofit status.

(2) A nonprofit mutual disability insurer has all powers of a mutual insurer organized under this chapter unless expressly reserved. A nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as provided in section 5805(1) shall not convert its status to a stock insurer under chapter 59 or reorganize under chapter 60.

History: Add. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5803 Mutual holding company resulting from reorganization considered as domestic mutual insurance company.

Sec. 5803. A mutual holding company resulting from a reorganization under chapter 60 shall be considered a domestic mutual insurance company under this act except that the mutual holding company shall not be issued a certificate of authority to issue policies or transact the business of insurance.

History: Add. 2000, Act 8, Imd. Eff. Feb. 25, 2000.

Popular name: Act 218

500.5804 Domestic mutual insurers; incorporation.

Sec. 5804. (1) Any number of persons, not less than 20, a majority of whom shall be bona fide residents of this state, by complying with the provisions of this chapter, may become together with others who may hereafter be associated with them or their successors, a body corporate, for the purpose of carrying on the business of mutual insurance as herein provided.

(2) Any persons proposing to form any such insurer shall subscribe and acknowledge articles of incorporation in accordance with chapter 50.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.5805 Merger of nonprofit health care corporation with nonprofit mutual disability insurer.

Sec. 5805. (1) As set forth in section 220 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1220, a nonprofit health care corporation may merge with a nonprofit mutual disability insurer where the surviving entity is governed by this chapter. A merger described in this section is exempt from the application of sections 1311 to 1319. Notwithstanding any provision of this act to the contrary, the resulting nonprofit mutual disability insurer shall continue as a nonprofit entity and shall continue to provide coverage

to the individual and small group health markets in this state.

(2) A nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as described in subsection (1) may, at its option, continue to offer any product that was offered to the subscribers of the nonprofit health care corporation.

(3) A nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as described in subsection (1) may offer supplemental coverage to medicare enrollees as provided in chapter 38. Notwithstanding any other provision of this act to the contrary and until July 31, 2016, both of the following apply to an insurer described in this subsection:

(a) The insurer shall continue to offer to current or new eligible policyholders who are residents of this state, at the same rates as offered to subscribers by the nonprofit health care corporation on the effective date of this section, the supplemental coverage to medicare enrollees.

(b) The insurer offering supplemental coverage under subdivision (a) shall continue all cost transfers as authorized under section 609(5) of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1609, on the effective date of this section.

(4) Benefits paid by a nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as described in subsection (1) to an insured or provider by way of a check or other similar written instrument for the transmission or payment of money, that is not cashed within the period prescribed in the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265, shall escheat to this state pursuant to the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265.

History: Add. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5810 Domestic mutual insurers; qualification for certificate of authority.

Sec. 5810. No such insurer shall issue policies or transact any business of insurance unless it shall hold a certificate of authority from the commissioner authorizing the transaction of such business, which certificate shall not be issued until and unless the insurer shall comply with the following conditions:

(1) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force at least 20 policies to at least 20 members for the same kind of insurance upon not less than 200 separate risks, each within the maximum single risk described herein.

(2) The "maximum single risk" shall not exceed 20% of the admitted assets or 3 times the average risk or 1% of the insurance in force, whichever is the greater, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

(3) It shall have collected from each applicant in cash a premium upon each application which premium shall be held in cash or securities in which insurers are authorized to invest and shall be equal to at least \$25,000.00: Provided, however, The cash assets of such insurer shall be not less than \$50,000.00, 1/2 of which shall be derived from cash premium payments from the original applicants, and the balance may come from premiums on additional applications or contributions as provided in section 5836, and in case of workmen's compensation insurers, the minimum premiums required to be collected from original applicants shall be \$50,000.00 with minimum cash assets of \$100,000.00 created as heretofore provided in this subdivision.

(4) For the purpose of transacting employers' liability and workmen's compensation insurance the applications shall cover not less than 20 employers having employees of not less than 5,000, each such employee being considered as a separate risk for determining the maximum single risk.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.5814 Repealed. 1970, Act 180, Imd. Eff. Aug. 3, 1970.

Compiler's note: The repealed section pertained to kinds of insurance permitted mutual insurers.

Popular name: Act 218

500.5818 Domestic mutual insurers; rights of corporation and other bodies to be members.

Sec. 5818. Any public or private corporation, board or association in this state or elsewhere may make applications, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee or local representative of any such corporation, board, association, or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as

much granted as the rights and powers expressly conferred.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.5824 Voting rights of members; administrative services agreements.

Sec. 5824. Every member of the company is entitled to 1 vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid, as may be provided in the bylaws. A nonprofit mutual disability insurer may permit entities holding administrative services agreements with it to be members and may provide in its bylaws the basis for the number of votes the entities will have as members.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5825 Rights or interests of member of nonprofit mutual disability insurer; dissolution or winding up of nonprofit mutual disability insurer; distribution and administration of residual value; conditions requiring payments to Michigan health endowment fund; determination by independent valuation; "beneficially own" defined.

Sec. 5825. (1) A member of a nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as provided in section 5805(1) shall have no interest in, or residual rights to, the assets of the nonprofit mutual disability insurer; shall not receive policy or surplus dividends; and shall not be required to pay capital assessments by the nonprofit mutual disability insurer.

(2) In the event of the dissolution or winding up of a nonprofit mutual disability insurer described in subsection (1), any residual value remaining after satisfaction of claims filed under section 8142(1)(a) to (h), shall be distributed for the benefit of the people of this state to the Michigan health endowment fund created under part 6A of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1651 to 550.1655, and shall be administered in a manner consistent with the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(3) In the event of a transaction or series of transactions pursuant to which the nonprofit mutual disability insurer demutualizes under chapter 59; converts to a mutual holding company under chapter 60; sells, transfers, or otherwise disposes of all or substantially all of its assets; merges into an entity and the nonprofit mutual disability insurer is not the surviving entity; moves its principal executive office out of this state; redomesticates to another state; or allows or permits a person or a group of persons acting in concert to beneficially own greater than 50% of the voting power associated with ownership interests in the nonprofit mutual disability insurer, whether by merger, dividend, or any other means, then the nonprofit mutual disability insurer or the acquiring person or entity shall make payment for the benefit of the people of this state to the Michigan health endowment fund created under part 6A of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1651 to 550.1655, in an amount equal to the greater of the acquisition price or the fair market value of the nonprofit mutual disability insurer and its subsidiaries, considered on a consolidated holding company basis as of the time of the closing of the transaction or series of transactions, as determined by an independent valuation by a person or entity mutually agreed upon by the attorney general, the commissioner, and the nonprofit mutual disability insurer. The cost of the independent valuation shall be paid by the nonprofit mutual disability insurer or the acquiring person or entity. The payment for the benefit of the people of this state shall be administered in a manner consistent with the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266, and shall be in satisfaction of any claim or assertion that consideration is due with respect to the charitable assets of the nonprofit mutual disability insurer.

(4) As used in this section, "beneficially own" means actual ownership or the right, directly or indirectly, to control voting power associated with ownership interests in the nonprofit mutual disability insurer.

History: Add. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5826 Offering health care benefits to residents regardless of health status.

Sec. 5826. Until January 1, 2014, a nonprofit mutual disability insurer that has merged with a nonprofit health care corporation as described in section 5805(1) shall offer health care benefits to all residents of this state regardless of health status.

History: Add. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Popular name: Act 218

500.5828 Domestic mutual insurers; contingent liability of members; nonassessable policies.

Sec. 5828. (1) The policies shall provide for a premium or premium deposit payable in cash and, except as herein provided, for a contingent premium at least equal to the premium or premium deposit.

(2) Such mutual insurer may issue a policy without a contingent premium while it has a surplus equal to the capital required of a domestic stock insurer transacting the same kinds of insurance, and in no event shall the holder of any such policy be liable for a greater amount than the premium or premium deposit expressed in the policy.

(3) If at any time the admitted assets are less than the reserve and other liabilities, the insurer shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore such assets, provided no member shall be liable for any part of such contingent premium in excess of the amount demanded within 1 year after the termination of the policy. The commissioner may, by written order, direct that proceedings to restore such assets be deferred during the time fixed in such order.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.5836 Mutual insurers; borrowed capital.

Sec. 5836. A mutual insurer organized under this chapter may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to provide the securities to be deposited with the state treasurer as required under this act, or to enable it to comply with any requirement of law, upon an agreement that has first been submitted to and approved by the commissioner, that the sum shall be repaid with interest accrued in a manner and at a rate approved by the commissioner. The agreement under which the sum is obtained shall provide that any claim for its return shall be inferior and subordinate to all claims of and reserves for policyholders and creditors. Interest shall be paid and principal shall be retired only out of the surplus earnings of the insurer and with the approval of the commissioner whenever, in his or her judgment, the financial condition of the insurer warrants it, except that approval shall be withheld if repayment will reduce the surplus to an amount that is less than the amount determined adequate to comply with section 403. Any sum advanced shall not form a part of the legal liabilities of the insurer but until repaid all statements published by the insurer or filed with the commissioner shall show the amount remaining unpaid.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

Popular name: Act 218

500.5840 Domestic mutual insurers; deficiency in assets; assessment of members.

Sec. 5840. Such insurer not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment upon its members liable to assessment to provide for such deficiency, such assessment to be against each such member in proportion to such liability as expressed in his policy: Provided, The commissioner may, by written order, relieve the insurer from an assessment or other proceedings to restore such assets during the time fixed in such order.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218